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September 29, 2006

**MEMORANDUM**

NSLP 2007-17  
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To: All NSLP Sponsors

From: Pat Cook and Katherine Stewart, RD, CPFM  
Office of Child Nutrition and School Health  
Nutrition Education Program Consultants

Subject: Exemptions Under the Competitive Foods Regulation

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This is to inform you of recent changes to the list of exemptions under the Competitive Foods Regulation. Eight new products have been added to the list of exemptions and two companies and their products have been removed.

**Products Added**

Brach's® Confections, Inc. has added Orchard Fruit™ Fruit Snacks; Brookside Fruit Company has added X-Treme Fruit™ bites – Atomic Apple; and Arcor USA, Inc. has added Arcor Fruit Snacks Mixed Fruit, Strawberry, Cherry and Grape to the list of products exempted from the "jellies and gums" category of "foods of minimal nutritional value," as defined in 7CFR Part 210.11(a)(2) and Part 220.2(i-1).

Red Toe Sodas, LLC has added Red Toe Soda Fruit Punch and Red Toe Soda Orange to the list of products exempted from the "soda water" category of "foods of minimal nutritional value" 7CFR Part 210 Appendix B (a)(1) and Part 220 Appendix B (1)].

The exemption of the products listed above means that they are no longer considered foods of minimal nutritional value and can therefore be sold during the meal period in a school food service area. This does not mean that these products are approved or endorsed by the Food and Nutrition Service. Nor does an exemption indicate that these products have significant nutritional value. In addition, the exemptions should not be perceived as guidance or encouragement to school food authorities concerning their possible purchase.

## Products Removed

Farley Foods, U.S.A. and its previously exempted products, Farley's THE ROLL Cherry FruitRoll slp and Farley's THE ROLL Strawberry Fruit Roll slp have been removed from the list of products exempted from the "jellies and gums" category of "foods of minimal nutritional value," as defined in 7CFR Part 210.11(a)(2) and Part 220.2(i-1). Mac Farms, Inc., e-Moo Carbonated Dairy-Based Beverage Orange Sparkle has been removed from the list of products exempted from the "soda water" category of "foods of minimal nutritional value" [7CFR Part 210 Appendix B (a)(1) and Part 220 Appendix B (1)].

Please remember that you can not serve foods of minimal nutritional value as part of SBP/NSLP meal.

## All Foods Are Included in the Nutrient Analysis

All food or menu items offered in a reimbursable meal, including condiments, are included in the nutrient analysis and count toward meeting the nutrient standards for the meal. However, foods that are considered *Foods of Minimal Nutritional Value (FMNV)* under 7 CFR Parts 210 and 220, Appendices B (i.e., chewing gum, soda water, water ices, and certain candies) are included in the nutrient analysis calculations only if they are used as a garnish in a menu item. For example, even though jelly beans are a food of FMNV, a menu planner would include them in the nutrient analysis if they are used as a cake decoration.

Page 27, Nutrient Analysis Protocols How to Analyze Menus for USDA's School Meals Programs

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